



# Property Tax Newsletter

## News and developments

A publication of the Property Tax Division

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Tax Commissioner

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### Equalization Meetings

It's that time of year again. During April, assessment officials were busy preparing for and attending meetings of township and city boards of equalization. The equalization and appeal processes continue in June when the county boards of equalization meet to review and equalize assessments among the various taxing districts and hear property assessment appeals from property owners.

County directors of tax equalization or any other county officials do not have any authority to change any information contained in the assessment lists approved by the township and city boards of equalization.

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Following are guidelines for the county board of equalization meeting:

- Assessment officials need to prepare for the meeting.

Prepare a summary of assessments indicating changes from 2005 to 2006 (market value of residential and commercial property, agricultural land value, new construction/demolition, taxable/nontaxable, changes in classification, annexation, state or locally assessed). Calculate adjustment worksheet (residential and commercial property) for each city and for all townships and prepare a statement of your recommendations.

Complete the spot check of properties ordered by the board of county commissioners at an earlier meeting.

- Inform county commissioners regarding the assessment and equalization processes. Assessment officials determine value, not taxes. Property value and taxing district budgets determine mill rates. The chairperson or appointed representative and the assessor for each city and township are required to attend the meeting. Provide a copy of your agenda: summary of assessments for 2006, equalization of assessments completed by city boards of equalization, equalization of assessments completed by township boards of equalization.
- Property owners may appeal *directly* to the county board of equalization, without first appealing to the local board of equalization. The county board of equalization has authority to order changes to assessments if the owner appeals directly to the county board of equalization. If individual property owners appeal their assessments to the county board of equalization, the board may order a reduction of an assessment, provided it first notifies the local board of its intent. The board must recess and then reconvene on another date to allow time for delivery of the notice. The proceedings of the meeting must indicate how the appeal was made (orally or in writing) and the reasoning for granting any reduction. If the board determines that any individual assessment needs an increase, the board must first notify the property owner of its



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intent, and the board must recess and then reconvene on another date to act on the issue. If the board determines that any individual property is listed and assessed in the wrong classification, the board directs the county auditor to correct the classification and assessment. If the board determines that an entire class of property (e.g., residential) needs either an increase or a decrease, notification is not necessary.

The county board of equalization does not have statutory authority to add an assessment for a property that was not assessed by either the assessor or the local board of equalization. If a property was not assessed, for any reason, the board needs to ask the county auditor to add the assessment as omitted property according to the provisions of N.D.C.C. §§ 57-14-01 through 57-14-07.

Individuals who appeal their assessment or claim property tax exemption need to provide the necessary evidence to the board to support their claim. The board should request the evidence. If the property owner's claim is that the property is assessed too high, board members should ask for a copy of a recent appraisal or a realtor's recent market analysis to support the individual's claim. If an individual claims exemption from assessment and tax, the board should ask for evidence to support the claim. It is the responsibility of the individual who brings an appeal before the board to provide the appropriate evidence to support that claim. The board should request an independent investigation of appeals and not automatically follow action of local boards of equalization. The board may need to recess to allow assessment officials time to investigate the matter and then reconvene to act on the appeal request.

Following completion of the meeting of the County Board of Equalization, the only official who has authority to make changes in the assessment list is the county auditor (N.D.C.C. § 57-12-08). 

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## Clarification of Communications Tower Assessments

We have received questions recently about the role of the local assessor in the assessment of communications towers. Communications towers may provide services such as radio transmission, cellular, microwave, cable or high definition television, paging, or global positioning satellite.


North Dakota Century Code subsection 57-02-03 states "All property in this state is subject to taxation unless expressly exempted by law." Property, including land, that is used to provide two-way telecommunications service for consideration is exempt from ad valorem taxation under the in-lieu provisions of N.D.C.C. ch. 57-34, Telecommunications Carriers Taxation.

To determine the taxability of a communications tower, associated structures and land, the assessor must determine the use of the property. Ownership does not determine the use or taxable status. A telecommunications company may argue that its property is automatically exempt. Each situation must be examined. Many companies offer services such as Internet that are not subject to the Telecommunications Gross Receipts Tax. Therefore, the real property associated with those non-qualifying services is taxable.

The process begins with locating such property. Next, the assessment official should request the owner of the tower to provide evidence of eligibility for exemption such as a copy of the lease agreement, lessee information, an IRS letter of 501(c)3 status, or other supporting documentation. Assessment officials may also contact the Property Tax Division to ascertain the tax status of a lessee.

A communications tower that is not used to provide service is taxable unless it is intended for use as part of a farm plant and therefore eligible for exemption according to N.D.C.C. § 57-02-08(15).

Services such as Internet access, cable and high definition television, one-way paging, global positioning satellite, and radio transmission are not exempt from ad valorem taxation under the Telecommunications Gross Receipts tax.

If a tower provides several services, both exempt and taxable, the assessor should value the portion that is taxable. The portion that is exempt is not exempt by local discretion and is not reported on the Abstract of Valuation of Certain Exempt Real Property. 


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## Reminders for the Sales Ratio Study

Electronic filing works great for income tax returns. It also works great for filing sales information for the Sales Ratio Study. It's a more efficient means of processing the information. It takes less time for assessment personnel to complete their responsibilities for the Study because information is entered only once and assessment personnel need only complete Bx forms for sales that are not usable in the Study. Assessment officials interested in filing sales information electronically may contact Judy Brosz. Judy will explain the process and e-mail an Excel template, which is used for entering information about usable sales. Judy's telephone number is 701-328-3142; her e-mail address is [jbrosz@state.nd.us](mailto:jbrosz@state.nd.us).

Whenever a deed is filed for a parcel of agricultural land split from a larger parcel, assessment officials may allocate a true and full value for the new parcel and list that amount as the assessor's value for the new legal description on line 18 of the Schedule Bx form. If assessment officials are not able to determine an appropriate value for the acreage transferred, the sales transaction must be listed on line 22 of the Schedule Bx form as non-usable in the Study and an explanation of why it is not usable must be listed on the back of the form.

The fact that a property owner or the owner's attorney-in-fact deeded property because the owner moved into an assisted living facility does not, in itself, make the transaction a forced sale and therefore non-usable in the Study. Assessors need to examine these sales transactions the same as any other sales transaction. The transaction must be arms-length between a willing buyer and seller, the property must have been made available to the public and advertised on an open market for a reasonable time. If the motives of the buyer and seller are reasonable and there was no undue pressure to buy or sell, the transaction represents market value and is usable in the Study.

Assessment officials cannot exclude or challenge sales of vacant land from the Sales Ratio Study simply because the land is vacant. Valid sales of vacant land must be included in the Study. 

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## NCRAAO Conference "Racing to North Dakota" in June


The North Central Regional Association of Assessing Officers (NCRAAO) consists of assessment officials from North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Kansas, Missouri, Illinois, Wisconsin, Indiana, and Michigan. The 31st annual conference of the NCRAAO, "Racing to North Dakota," will be held in Grand Forks, North Dakota June 18-20, 2006.

On Sunday, June 18, the annual NCRAAO Golf Classic is scheduled at the Kings Walk Golf Course. Non-golfers can take a casino run to Mahanomen, Minnesota. The President's Reception and Silent Auction will take place Sunday evening.

On Monday morning, June 19, the conference begins with a general opening session and featured motivational speaker Robin Silverman. The conference offers twelve unique educational experiences on Monday and Tuesday. Educational offerings include Golf Course Appraisal (Bob Ehler), Capitalization Rates (Rick Stuart), Convenience Store Appraisal (Rick Stuart), Ethanol Plant Appraisal (Robert Kocer), Grain Elevator Appraisal (Jeff Berg), Use of Soils Survey for Land Valuation (Mike Ulmer), Residential Property Appraisal (Joan Johnson), Residential Land Valuation (Robert Kocer), Agricultural Land Values by Detailed Soils (Larry Osborn), Excel Applications (Lynn Arthaud), Residential Valuation with Limited Sales (Rick Stuart), and Property Taxation in Other States (LuElla Dahme). Educational sessions will be held at the Ramada.

Conference entertainments includes "An Evening at the Ralph," featuring food, entertainment and tours of the Ralph Engelstad Arena. The Conference concludes with a banquet featuring great food and entertainment by Marcoux Corner, an a capella singing group.

Activities for spouses and partners include a tour of Grand Forks, the John D. Odegard School of Aerospace Studies on the University of North Dakota campus, Vintner's Cellar and Widman's Chocolatier.


This is an outstanding opportunity to obtain some excellent education in North Dakota and network with assessment officials from neighboring states. Information regarding the conference is available at [www.ncraao.org](http://www.ncraao.org). Please direct questions and conference registration to Ben Hushka, [bhushka@cityoffargo.com](mailto:bhushka@cityoffargo.com), (701) 241-1340, or to John Herz, [jherz@grandforksgov.com](mailto:jherz@grandforksgov.com), (701) 746-2611. 

***"The application for property tax exemption has been revised to reflect changes in requirements for disabled veterans to qualify for property tax exemption."***

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## New Attorney General's Opinion

In Letter Opinion 2006-L-14, Attorney General Wayne Stenehjem responded to the Walsh County State's Attorney, who asked whether a county may sell land it has acquired for nonpayment of taxes to a city without first offering the land for sale at the annual November tax sale. The Attorney General said, "property must first be offered for sale at the annual sale in November before the city may purchase it under N.D.C.C. § 57-28-17."


This clarifies language in § 57-28-17 that may be considered confusing. We want to remind everyone that an Attorney General's Opinion governs the actions of public officials until such time as the question presented is decided by the courts. 

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## Application for Property Tax Exemption Revised

The application for property tax exemption has been revised to reflect changes in requirements for disabled veterans to qualify for property tax exemption. The only changes are to notes numbered (1) through (6).

The current form is available on the web site for the Office of State Tax Commissioner [www.nd.gov/tax](http://www.nd.gov/tax). Click on “Property” and “Forms.” The application is the third bulleted item under the heading of “Forms and Instructions.” Note the revision date 3/24/06.

The current application form has (Rev. 3-06) listed next to the form number in the lower left-hand corner. Place a copy of the current form in Section 3 of your Assessor’s Manual as page F-4. Discard any outdated applications. 


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## Education Calendar

The Office of State Tax Commissioner has scheduled a residential property appraisal course for the week of November 13-17, 2006. Efforts are being made to bring in an instructor to present a class on mass appraisal of residential property.

Because of the additional cost for this instruction, the registration fee for this class will be more expensive than typical classes offered by the Office of State Tax Commissioner. Assessment officials needing or wanting this instruction will need to budget accordingly.

The following education will be offered by the Office of State Tax Commissioner during 2007.

Course 203-C	Introduction to the Income Approach	May 14-18, 2007
Course 101	Tax Administration	November 12-16, 2007 

### Electronic Newsletter

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